

OPEN MEETING AGENDA ITEM



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JOHN F. MUNGER  
MARK E. CHADWICK \*  
MICHAEL S. GREEN  
KATHLEEN DELANEY WINGER  
EVELYN PATRICK RICK \*\*  
LAURA P. CHIASSON

\* Also Admitted in Colorado  
\*\* Also Admitted in Washington State

MICHAEL M. RACY (NON-LAWYER)  
GOVERNMENT RELATIONS DIRECTOR  
DIRECT LINE: (520) 906-4646

LINDA WELTER COHEN, APR (NON-LAWYER)  
MEREDITH LEYVA (NON-LAWYER)  
PUBLIC RELATIONS CONSULTANTS

**ORIGINAL**  
**EXCEPTION**  
**MUNGER CHADWICK, P.L.C.**

ATTORNEYS AT LAW  
A PROFESSIONAL LIMITED LIABILITY COMPANY  
NATIONAL BANK PLAZA  
333 NORTH WILMOT, SUITE 300  
TUCSON, ARIZONA 85711  
(520) 721-1900  
FAX (520) 747-1550  
MungerChadwick.com

LAWRENCE V. ROBERTSON, JR.  
ADMITTED TO PRACTICE IN:  
ARIZONA, COLORADO, MONTANA,  
NEVADA, TEXAS, WYOMING,  
DISTRICT OF COLUMBIA

OF COUNSEL  
LIZÁRRAGA, ROBLES, TAPIA Y CABRERA S.C.  
HERMOSILLO, SONORA, MEXICO  
(LICENSED SOLELY IN MEXICO)

TUBAC APPOINTMENT OFFICE  
2247 East Frontage Road, #1  
P.O. Box 1448  
Tubac, Arizona 85646  
(520) 398-0411

December 8, 2004

Colleen Ryan, Supervisor  
Docket Control  
Arizona Corporation Commission  
1200 W. Washington  
Phoenix, AZ 85007

Arizona Corporation Commission

**DOCKETED**

**DEC 10 2004**

DOCKETED BY	<i>CAI</i>
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Re: In the Matter of the Application of Las Quintas Serenas Water Company for a Rate Increase  
Docket No. W-01583A-04-0178

Dear Ms. Ryan:

Enclosed for filing in the above-captioned proceeding are the original and thirteen (13) copies of Applicant's Exceptions to Recommended Opinion and Order on behalf of Las Quintas Serenas Water Company.

Also enclosed are two additional copies to be conformed and returned to our office.

Please contact our office if you have any questions, and thank you for your assistance.

Sincerely,

*Lawrence V. Robertson, Jr.*

Lawrence V. Robertson, Jr.

LVR:cl

cc: All parties of Record

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# EXCEPTION

BEFORE THE ARIZONA CORPORATION COMMISSION

COMMISSIONERS

MARC SPITZER, Chairman  
WILLIAM A. MUNDELL  
JEFF HATCH-MILLER  
MIKE GLEASON  
KRISTIN K. MAYES

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IN THE MATTER OF THE APPLICATION OF ) DOCKET NO. W-01583A-04-0178  
LAS QUINTAS SERENAS WATER CO. FOR A )  
RATE INCREASE ) **APPLICANT'S EXCEPTIONS TO**  
 ) **RECOMMENDED OPINION AND**  
 ) **ORDER**  
 )

Pursuant to A.A.C. R14-3-110(B), LAS QUINTAS SERENAS WATER COMPANY ("LQS"), by and through its undersigned attorney, hereby files its Exceptions to the recommendations set forth in the draft Opinion and Order prepared by the Administrative Law Judge assigned in the above-captioned proceeding. The matters to be addressed through these Exceptions are set forth in the same order in which they appear in the draft Opinion and Order.

**Finding of Fact ("FOF") No. 24**

In discussing the long distance telephone calls that were the subject of a dispute between LQS and the Commission's Staff, the draft Opinion and Order makes the following statement in FOF 24:

"The company did not meet its burden [of proof] with respect to the remainder of the toll charges, and did not provide sufficient information concerning the appropriateness of access charges and taxes to allow recovery of these costs." [p.5, l. 12.5-14.5]

1 LQS takes exception to this statement. As a part of Ex. A-5, LQS submitted copies of the  
2 company's telephone bills from Qwest for the period of September 7, 2002 through September 7,  
3 2003. Page 1 of each Qwest monthly statement specifically itemizes the "Taxes, Fees and  
4 Surcharges" associated with that statement, as well as the "Basic Services" charge for the month  
5 in question. These charges presumably include the "access charges and taxes" alluded to in the  
6 above quotation from FOF No. 24; and at no time during the hearing did LQS understand that  
7 these types of charges had been placed at issue. Thus, LQS is genuinely puzzled as to how it can  
8 be said that it failed to satisfy its probative burden as to these items, and submits that in fact it  
9 fully discharged that responsibility.  
10

11  
12 **Finding of Fact ("FOF") Nos. 42, 43 and 44**  
13 **Fifth Ordering Paragraph**

14 FOF No. 42 correctly notes that the arsenic level for Applicant's Well No. 7 is above the  
15 new maximum contaminant level ("MCL"). However, it incorrectly states that

16 "Arsenic levels in Well Nos. 5 and 6 are below the  
17 new standard." [p.10, 1.17.5-18.5]

18 Rather, as noted at page 8, lines 20-21 of the Rebuttal Testimony of Steve Gay [Ex. A-6]

19 "arsenic levels [on the LQS system] have been  
20 rising over the last couple of years and now are 11  
21 PPB (#5 well) 15 PPB (#6 well) and 13 PPB (at #7  
22 well)."

23 This correction is important to note, because in FOF No. 43 the following erroneous  
24 statement appears:

25 "The company has stated that it intends to blend to  
26 reduce arsenic levels in its system." [page 10, 1.  
27 19.5]  
28

1 Given the fact that each of its wells is currently in excess of the new MCL, blending does not  
2 represent a feasible approach for dealing with the arsenic situation. Moreover, as Mr. Gay  
3 indicated in his prefiled Rebuttal Testimony, LQS has (i) received a proposed remediation plan  
4 from Malcolm Pirnie Engineering, which includes four options, and (ii) requested proposals from  
5 several other consulting firms, which would involve alternative remediation approaches or using  
6 similar approaches with different media. In addition, LQS was anticipating receiving and  
7 evaluating information from several other industry sources as to possible remediation measures.  
8 [Ex. A-6, p. 9, l. 4-13]  
9

10 FOF No. 43 is correct in stating that LQS had not submitted a proposed remediation plan  
11 to the Pima County Department of Environmental Quality for review and approval as of the time  
12 of the October 13, 2004 hearing. However, it is in error when it describes the proposal to be  
13 submitted at a later date as a "blending plan" for the reason noted above.  
14

15 Finally, FOF makes reference to "a preliminary analysis of arsenic removal costs for  
16 LQS's system" which the Commission's Staff has calculated. It then states  
17

18 "However, we make no finding in this Decision as  
19 to the reasonableness of Staff's estimates or any  
20 costs that may be incurred by LQS to meet the new  
21 arsenic MCL's." [p.10, l.25.5-27.5]  
22

23 This disclaimer is appropriate for two reasons. First, LQS's rate increase request does not  
24 include any recovery of capital or operating costs associated with arsenic remediation. Rather, as  
25 Mr. Gay indicated in his Rebuttal Testimony, LQS will probably request approval from the  
26 Commission to borrow funds for the needed capital facilities in a future proceeding, and it may  
27 also seek authorization to recover projected operating costs in its rates at such time. [Ex. A-6 at  
28 p.9, l. 17-18.5] Second, the capital and operating costs for possible remediation plans specific to

1 the LQS system, as provided to date by LQS's consultants, are substantially in excess of the  
2 Commission Staff's generic calculation. [See Ex. A-6, p.9, 1.4.5-6.5]

3  
4 LQS believes that the preceding discussion is a necessary predicate to its request that the  
5 date for submitting its "detailed arsenic removal plan" set forth in the Fifth Ordering Paragraph  
6 of the draft Opinion and Order be extended from February 28, 2005 to April 15, 2005, in order to  
7 allow LQS sufficient time to (i) fully evaluate the recommendations of the aforementioned  
8 consultants, (ii) analyze the information received from several water industry sources, and (iii)  
9 formulate a proposed remediation plan. At this juncture, LQS is concerned it may not be in a  
10 position to have a plan ready for submittal by the earlier date.

#### 11 **First Ordering Paragraph**

12 The rates and charges proposed by both LQS and the Commission's Staff included rates  
13 and charges for a ¾" meter, a 3" meter and a 6" meter. [See FOF No. 31 at p.6, 1.11-16.5] The  
14 rates and charges set forth in the First Ordering Paragraph of the draft Opinion and Order do not  
15 include a recommended "Commodity Charge" for those three (3) meter sizes. [See p.12, 1.10-21]  
16 Presumably, and hopefully, such omissions are merely the result of inadvertence; and that they  
17 will be addressed prior to the Commission's consideration of the draft Opinion and Order at the  
18 December 14, 2004 Open Meeting.

#### 19 **Second Ordering Paragraph**

20 The draft Opinion and Order is currently scheduled to be considered by the Commission  
21 at its December 14, 2004 Open Meeting. If the Commission approves the recommended change  
22 in LQS's rates and charges at that time, effective for all service rendered on and after January 1,  
23 2005, LQS will not have sufficient time to provide its customers with the advance notification of  
24 such change in rates and charges contemplated by the Third Ordering Paragraph of the draft  
25  
26  
27  
28

Opinion and Order. This is because LQS's regularly scheduled billings occur on or about the 15<sup>th</sup> calendar day of each month. Accordingly, LQS suggests that the effective day in the Second Ordering Paragraph be changed from January 1, 2005 to January 15, 2005.

Dated: December 9, 2004

Respectfully submitted,



Lawrence V. Robertson, Jr.  
Munger Chadwick, P.L.C.  
333 N. Wilmot, Ste 300  
Tucson, Arizona 85711  
Attorneys for Las Quintas Serenas Water Company

Original and thirteen (13) copies of the foregoing filed/emailed this 9<sup>th</sup> day of December, 2004 with:

Docket Control

Copies of the foregoing mailed/emailed this 9th day of December, 2004 to:

Jane L. Rodda  
Arizona Corporation Commission  
400 West Congress, Ste 218  
Tucson, Arizona 85701

Christopher Kempley, Chief Counsel  
Legal Division  
ARIZONA CORPORATION COMMISSION  
1200 W. Washington Street  
Phoenix, Arizona 85007

Ernest Johnson, Director  
Utilities Division  
ARIZONA CORPORATION COMMISSION  
1200 W. Washington Street  
Phoenix, Arizona 85007

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Mr. Steve Gay  
General Manager/ Operator  
Las Quintas Serenas Water Company  
16965 Camino De Las Quintas  
P.O. Box 68  
Sahuarita, Az 85629

Arizona Reporting Service, Inc  
2627 N. Third Street, Suite Three  
Phoenix, Arizona 85004-1103

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